

Arizona Navigable Stream Adjudication Commission

	FY 2015 ACTUAL	FY 2016 ESTIMATE	FY 2017 APPROVED
OPERATING BUDGET			
<i>Full Time Equivalent Positions</i>	2.0	2.0	2.0
Personal Services	70,000	70,000	70,000
Employee Related Expenditures	28,000	31,000	28,400
Professional and Outside Services	208,000	208,000	208,000
Travel - In State	5,000	0	0
Other Operating Expenditures	16,400	17,600	17,600
AGENCY TOTAL	327,400	326,600	324,000^{1/}
FUND SOURCES			
General Fund	127,400	126,600	124,000
<u>Other Appropriated Funds</u>			
Arizona Water Banking Fund	200,000	200,000	200,000
SUBTOTAL - Other Appropriated Funds	200,000	200,000	200,000
SUBTOTAL - Appropriated Funds	327,400	326,600	324,000
TOTAL - ALL SOURCES	327,400	326,600	324,000

AGENCY DESCRIPTION — The Arizona Navigable Stream Adjudication Commission (ANSAC) is a 5-member body charged with determining the ownership of watercourses in the state by establishing whether the watercourses were navigable at the time of statehood. If navigable, title to the watercourse belongs to the state based on a series of court rulings. If non-navigable, the title to the watercourse belongs to the current title holder.

Operating Budget

The budget includes \$324,000 and 2 FTE Positions in FY 2017 for the operating budget. These amounts consist of:

	FY 2017
General Fund	\$124,000
Arizona Water Banking Fund	200,000

These amounts fund the following adjustments:

Statewide Adjustments

The budget includes a decrease of \$(2,600) from the General Fund in FY 2017 for statewide adjustments. (Please see the Agency Detail and Allocations section.)

Other Issues

Additional Legislation

Arizona Water Banking Fund

The FY 2017 Environment Budget Reconciliation Bill (Laws 2016, Chapter 120) continues to allow the commission to use monies appropriated to it from the Arizona Water Banking Fund for the commission's unpaid legal

obligations. The General Appropriation Act appropriates \$200,000 from the Arizona Water Banking Fund to the commission in FY 2017. In FY 2015 the commission spent \$200,000 from the Arizona Water Banking Fund for unpaid legal obligations.

Litigation

The commission is responsible for determining the navigability of state watercourses at the time of statehood. If navigable, the watercourses are considered State Trust Land and any related proceeds from the waterbeds would be deposited in the Riparian Trust Fund, pursuant to A.R.S. § 37-1156. The monies in this fund are primarily used to acquire and maintain land adjacent to the waterbeds for conservation purposes.

As of May 2006, ANSAC had determined all watercourses in Arizona to be non-navigable at the time of statehood. In June 2006, the first appeal was filed against the commission by the Arizona Center for Law in the Public Interest and the State Land Department regarding the commission's determination for the Lower Salt River. Five other appeals have been filed and stayed pending the completion of the Lower Salt River case.

^{1/} General Appropriation Act funds are appropriated as a Lump Sum by Agency.

In August 2007, the Maricopa County Superior Court affirmed the commission's determination. The Superior Court decision was appealed to the Arizona Court of Appeals. A decision by the Arizona Court of Appeals in May 2010 did not overturn the commission's determination concerning the Lower Salt River. Instead, the Court of Appeals set aside the Superior Court's original decision, and remanded the Lower Salt River case to the Maricopa County Superior Court to determine the "ordinary and natural condition" of the watercourses by considering navigability in the period prior to statehood.

In October 2011, the Maricopa County Superior Court remanded the 4 cases appealed in Maricopa County back to the commission to address issues raised by the May 2010 Arizona Court of Appeals opinion. The 2 cases appealed in Pima County were also returned to the commission to address the same issues.

In February 2012, the United States Supreme Court ruling in *PPL Montana v. Montana* required the commission to resolve whether individual segments of the affected streambeds were navigable prior to statehood. The commission had previously determined navigability for each streambed as a whole rather than by segments. Following the U.S. Supreme Court decision, the commission adopted a segment-by-segment approach in determining navigability for the 6 remanded cases.

As of May 2016, the commission indicates that hearings for the San Pedro River, Santa Cruz River, Gila River, and Verde River cases have been completed. The Upper Salt River and the Lower Salt River cases have been consolidated into a single Salt River case for hearing purposes. The Salt River case requires additional hearings in order to further address questions raised by the Arizona Court of Appeals and the related 2012 U.S. Supreme Court ruling. Hearings for the Salt River case are expected to continue throughout the 2016 calendar year. The commission is scheduled to sunset on June 30, 2020 pursuant to Laws 2015, Chapter 58.